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RR File No. 010660-70045

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

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GUY BENTLEY MEEKER JR., Civil Action No. 1:23-cv-4952

Plaintiff,

- against -

STATE FARM FIRE AND CASUALTY
INSURANCE,

Defendant.

-----X

NOTICE OF REMOVAL

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Pursuant to 28 U.S.C. §§ 1441 and 1446(a), Defendant, State Farm Fire and Casualty Company, improperly pled herein as “State Farm Fire and Casualty Insurance” (“State Farm”), by and through its undersigned counsel, Rivkin Radler LLP, hereby gives notice of the removal of the above-captioned matter from the Supreme Court of the State of New York, County of New York, where the action is now pending, to the United States District Court for the Southern District of New York, and respectfully states as follows:

1. This action (“Action”) was commenced against State Farm on or about May 3, 2023, by Plaintiff, Guy Bentley Meeker Jr. (“Plaintiff”), in the Supreme Court of the State of New

York, County of New York, under Index No. 652158/2023, with the filing of a Summons with Notice via NYSCEF. See Exhibit "A"

2. On May 19, 2023, Plaintiff's counsel filed an Affidavit attesting to the service of the Summons with Notice by delivery of said papers to the New York State Department of Financial Services on May 16, 2023. See Exhibit "B".

3. On June 6, 2023, Plaintiff's counsel filed an Affidavit attesting to personal service of the Summons with Notice on May 31, 2023, together with a copy of the Superintendent's Acknowledgement of Service attesting to service pursuant to Insurance Law § 1212 by delivery of said papers to the New York State Department of Financial Services on May 17, 2023. See Exhibit "C".

3. On June 7, 2023, Plaintiff's counsel filed a duplicate copy of the Affidavit attesting to personal service of the Summons with Notice on May 31, 2023, together with a Statement of Authorization for Electronic Filing. See Exhibit "D".

4. Exhibits "A" through "D" constitute all of the process and pleadings that have been filed in the Action, as required by 28 U.S.C. § 1446(a).

5. For the purposes of State Farm's application herein, this Notice of Removal is being filed within thirty (30) days of service of the Summons with Notice upon State Farm on May 16, 2023, and is timely filed pursuant to 28 U.S.C. §§ 1441, 1446(b).

6. Removal of this action is proper because this is a civil action in which Plaintiff seeks monetary relief in excess of \$500,000.00 against State Farm and there is complete diversity within the meaning of 28 U.S.C. § 1332 between Plaintiff and Defendant.

7. Venue is proper in this United States District Court pursuant to 28 U.S.C. § 1446(a) because this Action is pending in New York County, which is within the Southern District of New York.

I.
Nature of the Case

8. The Action is of a civil nature in which Plaintiff seeks monetary relief against State Farm in connection with State Farm's ongoing investigation of Plaintiff's purported loss, seeking a declaratory judgment by the Court a) that the defendant is obligated to honor and cover the Claim; b) that the cost to remediate and repair is covered by the policy; and c) that Plaintiff has a valid claim against State Farm for property damage "in an amount presently unascertainable but believed to exceed \$500,000.00, together with the costs and expenses of this action, including all Plaintiff's reasonable attorneys' fees."

II.
The Requirements for Removal Are Satisfied

9. The requirements for diversity jurisdiction under 28 U.S.C. § 1332(a)(1) are satisfied.

A. Diversity of Citizenship

10. At the time this lawsuit was filed and as of the date of this notice, Plaintiff was and is a citizen of the State of New York, New York County. See 28 U.S.C. § 1332(c)(1); see also, the caption of the Summons with Notice at Exhibit "A" (designating New York County as the place of trial on the basis of Plaintiff's place of residence).

11. At the time this lawsuit was filed and as of the date of this notice, State Farm was and is a citizen of the State of Illinois, because it is an Illinois corporation, with its principal place of business in Illinois. See 28 U.S.C. § 1332(c)(1).

12. Accordingly, there is complete diversity between the parties. See 28 U.S.C. § 1332(a)(1).

B. Amount in Controversy

13. As noted above, Plaintiff is seeking damages of no less than \$500,000.00, exclusive of Plaintiff's demand for costs, expenses and reasonable attorney's fees. See Exhibit "A" at page 2, under RELIEF SOUGHT.

14. Accordingly, Defendant contends that the amount in controversy requirement of 28 U.S.C. § 1332(a)(1) is satisfied and, thus, removal of this Action is proper.

III.

The Other Procedural Requisites for Removal are Satisfied

15. Removal is timely under 28 U.S.C. §§ 1446(b) because the Summons with Notice is the first pleading, motion, order, or other paper from which it could first be ascertained that this Action is one which is or has become removable.

16. State Farm received the Summons with Notice on May 25, 2023. Accordingly, this Notice of Removal is filed within thirty (30) days after receipt by State Farm, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which the Action is based. See 28 U.S.C. § 1446(b)(1).

17. State Farm, through its counsel, will give written notice to Plaintiff, through his counsel, of the filing of this Notice of Removal, as required by 28 U.S.C. § 1446(d).

18. A copy of this Notice of Removal and a Notice of Filing the Notice of Removal will be filed by State Farm, through its counsel, with the Clerk of the Supreme Court of the State of New York, County of New York, as required by 28 U.S.C. § 1446(d). State Farm has thus satisfied the requirements for removal under 28 U.S.C. § 1446 and all applicable rules.

IV.
Conclusion

19. For all the foregoing reasons, State Farm respectfully requests that this Court assume full jurisdiction over this Action as provided by law. State Farm intends no admission of liability by this Notice and expressly reserves all defenses, motions, and pleas, including, without limitation, objections to the sufficiency of Plaintiff's pleadings.

Dated: June 13, 2023
Poughkeepsie, New York

Respectfully submitted,

RIVKIN RADLER LLP
Attorneys for Defendant,
State Farm Fire and Casualty Company
p/h/a State Farm Fire and Casualty Insurance

By: *s/ Frank P. Izzo*
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